

lines 36-37; no new matter has been added by this amendment. Reconsideration is respectfully requested. Claims 1-3, 7-10, 14, 15, 19-24, 30-36, and 38 are currently pending in this application. The species insulin (whether administered orally or injected) has been elected with traverse.

I. Rejection Under 35 U.S.C. § 112, Second Paragraph

Claim 7 has been rejected as allegedly indefinite under 35 U.S.C. § 112, second paragraph. Specifically, claim 7 is allegedly unclear due to the use of the word "including." The wording of this claim has been amended to address the alleged indefiniteness. Accordingly, withdrawal of the § 112 rejection is respectfully requested.

II. Rejection Under 35 U.S.C. § 103

Claims 1-3, 7-10, 14, 15, 19-24, 28, 30-36, and 38 have been rejected as allegedly obvious over Weinstock *et al.* (*Pharmacology* 54(4):169-178, 1997). Applicant has attached a copy of List of Contents page for volume 54(4) of *Pharmacology* as Exhibit A.

Only those references with effective dates prior to the date of invention are available to be cited as prior art against a patent application. The date of invention is presumed to be at least as early as the date of the filing of a fully enabled patent application drawn to that invention, which in this case is February 24, 1997.

The actual publication date of the Weinstock reference is **April 1997** (see the upper right hand corner of Exhibit A). Thus, the Weinstock *et al.* publication date is after the **February 24, 1997**, filing date of the present invention. The Weinstock reference is not available as prior art against the instant invention, and thus cannot render the pending claims obvious. Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

For the reasons set forth above, all claims currently under consideration are in condition for allowance. If for any reason the Examiner believes that a telephone

conference would expedite allowance of the claims, please telephone the undersigned at (503) 226-7391.

Respectfully submitted,

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